



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 09/24/02

AGENDA ITEM 8

WORK SESSION ITEM _____

TO: Mayor and City Council
FROM: City Manager
SUBJECT: Campaign Contribution Limits

RECOMMENDATION:

It is recommended that the City Council provide direction to staff regarding preparation of an ordinance concerning campaign contribution limits.

BACKGROUND:

At its July 2 worksession, the Council indicated interest in discussing development of an ordinance concerning campaign contribution limits. The item appears on the agenda this evening in order to provide the Council with an opportunity to provide direction to staff with regard to features it would like included in such an ordinance.

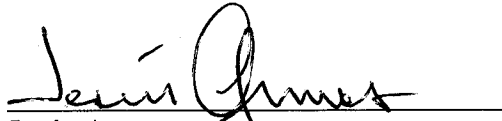
Attached for the Council information is material provided by the CASH organization along with the ordinance (and related staff report) on campaign expenditure limits adopted by the Council in 1997. As you will recall, the ordinance was adopted based on Proposition 208, which was subsequently voided by the Courts. Consequently, the City's ordinance is no longer valid.

Since the worksession, staff surveyed other cities in the Bay Area to determine which have adopted similar ordinances. As the information we obtained is essentially the same as that presented to you by CASH, we would simply refer you to the chart developed by CASH labeled "Contribution Limits by California Cities."

While many cities have contribution limits, only a few have expenditure limits. Of those in the latter category, limits are established either based on a flat amount, or as function of population. In this instance, we learned that amounts vary from \$.35 per resident in Santa Cruz, to \$1.50 in Oakland. Oakland has established a different rate (\$.70) for the Mayor's race. For those cities using a per capita structure, allowance is made for adjustments to changes in population and inflation. A CPI index is used in the latter case.

When utilizing the per capita method, some use registered voters or while others use total population. In Hayward, as of January 1, 2002, there were a total of 144,304 residents, according to the State Department of Finance. The County Registrar of Voters reports a total of 44,726 voters in Hayward as reported to the Secretary of State on September 6, 2002.

With regard to public financing, in the Bay Area it appears that only the cities of Oakland and San Francisco provide some form of municipal funding.



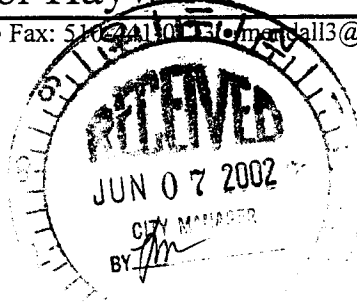
Jesús Armas
City Manager

Attachment

Campaign Solutions for Hayward

30232 Brookside Lane, Hayward, CA 94544 • Tel: 510-441-7487 • Fax: 510-241-1013 • mandall3@ix.netcom.com

June 6, 2002



Dear Mayor Cooper,

CC: Jesus Armas, City Manager

We are writing to you on behalf of Campaign Solutions for Hayward (CASH). CASH is a group of Hayward community activists who believe it is time for the City of Hayward to implement campaign finance reform for local city elections.

We believe that...

- The importance of large campaign contributions should be reduced while the value of grass roots activism and small contributions should be increased.
- It is difficult for first time candidates, even highly qualified candidates, to raise the funds needed to run a competitive campaign.
- The current system of unlimited campaign contributions opens our electoral system to both the potential of corruption and the public perception of corruption.

CASH has developed a reform proposal (attached) to address these issues. The reforms will increase fairness in Hayward elections and expand the opportunity to run for office. In developing this proposal, CASH researched similar ordinances passed by numerous other California cities such as Oakland, Los Angeles and Petaluma.

CASH is happy to send representatives to meet with you and the rest of the Hayward City Council to answer any questions you may have about our proposal.

We hope that the Hayward City Council will support the CASH reforms. And we request that the topic be placed on the City Council agenda.

Thank you for your consideration.

Peter Hendley
Peter Hendley

Al Mendall

Al Mendall
Co-Chairs, Campaign Solutions for Hayward

CM _____
ACM _____

Co-Chairs: Peter Hendley & Al Mendall

Ande Brescia • Evelyn Cormier • Ginny DeMartini • Jim Forsyth • MaryAnne Reno • Barbara Sacks • John Sands

May 2002

Campaign Finance Reform Proposal

I. Voluntary Spending Limits

- \$0.53 per registered voter for City Council (\$25,000 at current population level).
- \$0.85 per registered voter for Mayor (\$40,000 at current population level).
- Self financed maximum is 10% of total spending limit
- Unspent funds from previous campaigns count as self-financing, subject to the 10% limit.
- Limits are indexed for inflation, according to the SF Bay Area CPI index.

II. Mandatory Contribution Limits

- \$100/\$500 variable contribution limits. An adult may contribute up to \$500 to a candidate who agrees to the spending limit, but only \$100 to candidates who does not.
- Higher contribution limits (\$250/\$1000) apply to Small Donor PACs. An SDP is a PAC with at least 50 members. No member can contribute more than \$50 to the SDP per election cycle. The SDP must have been in existence one year prior to the election.
- In-kind contributions are counted as monetary contributions and are subject to the limits.
- Contributions from individuals and entities they control must be aggregated to determine the cumulative amount received from a contributor.
- Donations to any committee that spends money to support or oppose a candidate are subject to the above limitations.

III. Partial Public Financing

- To qualify for public financing, a candidate...
 1. must have an opponent
 2. must collect at least 50 donations of \$5 or more totaling at least \$1000.
 3. must sign a Clean Election contract obligating them to...
 - Abide by the spending limit
 - Abide by the self-finance limit of 10%
 - Agree that unspent funds at the end of a campaign will be refunded to the city in proportion to the total funds raised by the candidate.
- Public funds match the first \$100 from each donor on a 1:1 basis. For example, a \$250 contribution would be matched by \$100 in public funds.
- Public matching funds only apply to donations collected less than 6 months before the election. The final request for matching funds must be submitted to the city no later than 7 business days prior to the election.
- Public funds are disbursed in at least \$1000 installments no more than once per week. The final disbursement may be less than \$1000.
- Hayward will fund the Clean Election Fund with \$1 per registered voter per year. In the unlikely case that the fund is exhausted, no more matching funds will be issued.
- The penalty for exceeding either the spending limit or contribution limit will be \$500 or three times the amount of the violation, whichever is greater. In addition, a candidate who violates the spending limit by \$1000 or more will be required to return all public matching funds they received.

Campaign Solutions for Hayward

30232 Brookside Lane, Hayward, CA 94544 • Tel: 510-441-7487 • Fax: 510-441-0113 • mendall3@ix.netcom.com

Additional Notes Regarding the CASH Proposal

Cost to the City of Hayward

CASH estimates that the cost to the City to administer sections I and II of the proposal would be minimal and should not require additional staff.

For section III, Partial Public Financing, CASH estimates that a typical election cycle will see the disbursement of less than \$60,000 in matching funds. CASH further estimates that administration of the public financing would require a ½ time employee during the 3-4 months surrounding an election. Finally, there is an unknown enforcement cost that will depend on the method of monitoring compliance and the frequency and severity of violations.

Qualifying for the Public Match

The Partial Public Financing is intended to provide funds only to candidates who are able to demonstrate a significant, though not prohibitive, level of support within the community. Under the rules as proposed, many past candidates for Mayor or City Council would have received no public matching funds.

Additionally, CASH expects that future candidates' ability to qualify for matching funds will become a litmus test for the public in identifying viable candidacies.

Enforcement

CASH acknowledges that there are options for enforcement of the proposal. One option is to use city staff to review the records of candidates who receive matching funds. A second option is to assign oversight responsibility to a new or existing citizen commission which would have the assistance of the city staff. A third option is for the City to encourage volunteer oversight from groups like CASH and/or the media to bring possible violations to light.

In each of these cases, once a potential violation is identified the matter would be referred to the city staff.

Electronic Filing

CASH recommends that the City encourage or require electronic filing of campaign documents to facilitate more rapid processing of the data. This would also enable the City, if it so chose, to display the information on the City website.

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Additional Notes Regarding the CASH Proposal

Independent Expenditures

Independent expenditures cannot be banned. However, cities like San Francisco, Petaluma and Oakland have placed requirements on such expenditures. Those requirements may include, but are not limited to:

1. A requirement that all mailings clearly state their funding source and top donors. It can go so far as to require that the disclosure statement be of a certain font size.
2. A requirement that any mailers of 200 pieces or more, must submit a copy to the office of the City Clerk where it will be kept on file as a matter of public record.

These measures will not prevent independent expenditures, but they will inform the public as to their sources.

Sample Ballot Designation

CASH recommends that candidates who accept/reject the spending limits receive a sample ballot designation such as "Accepted/Declined Voluntary Spending Limits." This will help inform voters and provide a further incentive for candidates to agree to the spending limits.

Loans

Under section II, any loan made to a candidate is considered a "contribution" to that candidate and are subject to the limits. This includes loans made by a candidate to his or her own campaign.

Small Donor PACs

The intent of the higher contribution limits for Small Donor PACs (SDP) is to recognize the right of groups that represent many individuals to pool their member's contributions, while simultaneously not creating a "loophole" that would allow large donors to bypass the limits.

The Small Donor PAC definition used by CASH is based on a similar definition from Proposition 208.

Severability Clause

The ordinance should include a "severability clause." This clause states that if a part of the ordinance is rule unconstitutional, that the rest of the ordinance will remain in place.

Co-Chairs: Peter Hendley & Al Mendall

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Contribution Limits in California Cities

<u>City</u>	<u>Individual Limit</u>
Agoura Hills	\$250
Anaheim	\$1000
Arcata	\$120
Belmont	\$100 (\$200 PAC)
Berkeley	\$250
Beverly Hills	\$100 (\$250 w/ sl)
Burbank	\$250
Chico	\$1000
Chula Vista	\$250
Concord	\$500
Contra Costa County	\$100 (\$750 w/sl)
Coronado	\$200
Culver City	\$500 (\$1,000 PAC)
Cupertino	\$100 (\$200 SDP)
Dana Point	\$450
Davis	\$100
Del Mar	\$50
Dublin	\$300
Encinitas	\$100
Escondido	\$250
Fillmore	\$250 (\$600 PAC)
Folsom	\$150
Fountain Valley	\$500
Fremont	\$250
Fresno	\$1000 (\$2,500 PAC)
Gardena	\$500
Gilroy	\$250
Grand Terrace	\$250
Hermosa Beach	\$249
Huntington Beach	\$300
Irvine	\$310
Laguna Beach	\$250
Laguna Niguel	\$350
Lemon Grove	\$250
Livermore	\$100
Long Beach	\$250
Los Angeles	\$500
Los Angeles Co.	\$200 (\$1,000 w/sl)
Malibu	\$500
Manhattan Beach	\$250

<u>City</u>	<u>Individual Limit</u>
Milpitas	\$350
Newport Beach	\$500
Oakland	\$100 (\$500 w/ sl)
Orange	\$500
Orange County	\$1000
Palo Alto	\$100 (\$250 w/ sl)
Pomona	\$500
Poway	\$100
Rialto	\$250
Richmond	\$2500
Sacramento County	\$500 (\$100 for PAC)
San Buenaventura	\$100 (\$200 w/ sl)
San Diego	\$250
San Diego County	\$250
San Francisco	\$150 (\$500 w/ sl)
San Jose	\$250 (\$500 w/ sl)
San Juan Capistrano	\$250
San Luis Obispo	\$100
San Marcos	\$250
San Mateo County	\$1000
Santa Ana	\$1000
Santa Clara County	\$250 (\$500 w/ sl)
Santa Clarita	\$250
Santa Cruz County	\$200 (\$600 for PAC)
Santa Monica	\$250
Santa Rosa	\$1000
Santee	\$250
Sausalito	\$250 (\$500 for PAC)
Scotts Valley	\$100
Seal Beach	\$250
Signal Hill	\$280
Solana Beach	\$100
Sonoma County	\$1000
South Gate	\$1000
Thousand Oaks	\$250
Torrance	\$1000
Union City	\$500
Walnut Creek	\$100
West Covina	\$500 (\$1000 PAC)
West Sacramento	\$250

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	CASH	Hayward's	Oakland	Petaluma	Boulder	Tucson
	Proposal	1997 Ordinance	California	California	Colorado	Arizona
Voluntary Spending Limits	Yes	Yes	Yes	Yes	Yes	Yes
Spending Limit (City Council)	\$0.53 / voter	\$50,000	\$0.50 / resident	\$20,000	\$0.15 / voter	\$0.40 / voter
Spending Limit (Mayor)	\$0.85 / voter	\$50,000	\$0.70 / resident	\$20,000	\$0.15 / voter	\$0.20 / voter
Self Financing Maximum	10%	?	5%	25%	20%	3%
Treat Rollover Funds as Self-Financing?	Yes	No	?	Yes	Yes	not permitted
Indexed for Inflation	Yes	No	Yes	Yes	Yes	Yes
Indexed for Population?	Yes	No	Yes	No	Yes	Yes
Limits on Independent Expenditures?	Yes	No	Yes	Yes	Yes	No
Mandatory Contribution Limits	Yes	Yes	Yes	Yes	Yes	Yes
Individuals (w/o Spending Limits)	\$500 (\$100)	\$500 (\$250)	\$500 (\$100)	\$200	\$100	\$500
Pacs (w/o Spending Limits)	\$1000 (\$250)	\$500 (\$250)	\$1000 (\$250)	\$200	\$100	\$1,000
In-Kind Contributions	same limits	?	?	same limits	same limits	same limits
Public Financing	Yes	No	Yes	Yes	Yes	Yes
To Qualify ...Must Raise	\$1,000	N/A	5%	25%	10%	200/300 x \$10
Public Financing (% of Spending Limit)	up to 50%	N/A	15%	up to 33%	up to 50%	up to 50%
Matching Amount (per contribution)	\$100	N/A	\$100	\$200	\$100	100%
Match Ratio	1 : 1	N/A	1 : 1	1 : 1	1 : 1	1 : 1
Time Period of Match	6 months	N/A	Jan 1 - Nov 2	?	?	Jan 1 - Nov 2
Funding Method	\$1 / voter / year	N/A	\$460K / cycle	?	?	council action
Last Match (before election)	7 days	N/A	10 days	14 days	14 days	?
% of unspent funds to be returned	proportional	N/A	100%	33%	50%	100%
Penalties for Violation	Yes	Yes	Yes	Yes	Yes	Yes
Donating Violation	\$500 or 3 x	Prop 208	misdemeanor	\$500 or 3 x	\$500 or 3 x	NONE
Spending Violation	\$500 or 3 x	Prop 208	misdemeanor	\$500 or 3 x	\$500 or 3 x	3 x amount
Return Match for Spending Violation?	Yes if > \$1,000	N/A	Yes	Yes	No	No



CITY OF HAYWARD AGENDA REPORT

AGENDA DATE 11/25/97

AGENDA ITEM 5

WORK SESSION ITEM _____

To: Mayor and City Council

From: City Attorney

Subject: Introduction of An Ordinance Establishing a \$50,000 Campaign Spending Limitation for City Council Elections

Recommendation:

The attached ordinance is presented pursuant to the City Council's direction to prepare an ordinance relating to voluntary campaign expenditure limits for elections to city offices. It is recommended that the City Council consider and introduce the proposed ordinance.

Background

On November 5, 1996, the California voters passed Proposition 208, which substantially amended the California Political Reform Act's ("PRA") provisions regarding political campaign finance and disclosure. Among other things, Proposition 208 established limits on contributions to candidates, and created a process for increasing those limits in certain instances if a candidate volunteers to accept a campaign expenditure limit. Under the statutory framework, municipalities are authorized to adopt local voluntary expenditure ceilings, with incentives to candidates in the form of raised contribution limits.

At a work session held on November 18, 1997, Council considered adoption of an ordinance providing for voluntary expenditure limits for elected city offices, and directed staff to prepare an ordinance for introduction.

Contribution Limitations and Voluntary Expenditure Ceilings

Proposition 208 limits contributions based on types of elections and contributors. For local races in districts with 100,000 or more residents, a "person" (individuals, various business entities and committees) may contribute up to \$250 to a candidate or a candidate's controlled committee.

Cities are permitted to establish voluntary expenditure ceilings in a maximum amount of one dollar per resident for each election in the jurisdiction. They may also impose a more *stringent* expenditure limit. If a city adopts a voluntary expenditure ceiling, candidates must file a statement of acceptance or rejection of the ceiling before accepting any contributions. If the candidate accepts the limitations, the permissible amount of contribution to the candidate is doubled. In Hayward, for example, if a city council candidate were to agree to spending limits, the allowable per-person contribution to that candidate would increase from \$250 per person to \$500. If the candidate does not accept the voluntary ceiling, he or she is only allowed to receive the \$250 statutory contribution amount.

Proposition 208 also requires that local elections officials designate on the ballot, in the ballot pamphlet, and in the sample ballot, which candidates have accepted the voluntary expenditure ceilings. The Fair Political Practices Commission has been directed to issue regulations regarding the manner of designation.

If a candidate declines to accept voluntary expenditure ceilings and receives contributions, has cash on hand, or makes qualified expenditures equal to 75 percent or more of the recommended expenditure ceiling for that office, the voluntary expenditure ceiling for other candidates who have accepted the limits is automatically tripled. Likewise, if an independent expenditure committee or committees in the aggregate spend 50 percent or more of the applicable expenditure ceiling in support of or in opposition to any candidate, the other candidates' voluntary expenditure limits automatically triple.

These components -- increased contribution limits, public disclosure, and the lifting of expenditure ceilings in certain instances -- form the basic incentive program set forth in Proposition 208.

Campaign Expenditure Limit Ordinance

The attached ordinance sets forth the necessary findings in support of adoption of a voluntary expenditure limit. It would amend Chapter 2 of the Hayward Municipal Code by adding a new Article 13, which would establish the expenditure limit.

In the attached ordinance, the voluntary expenditure limit is set at \$50,000, per direction of Council. (Sec. 2-13.00(a).) The Council could adopt a spending limit as high as \$123,934, based on the City of Hayward's current official population of 123,934.

Prior to any future elections for city elective offices, the Council may reconsider the expenditure limit and adjust or modify it consistent with current economic conditions, up to an amount not to exceed one dollar (\$1.00) per resident population at the time of the adjustment. In addition, the ordinance provides for:

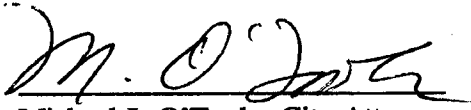
- notification of acceptance or rejection of expenditure limit

- prohibition against excess spending
- \$250 per person contribution limit for those candidates who reject limits
- \$500 per person contribution limit for those candidates who accept limits
- penalties for violation consistent with Political Reform Act

Conclusion

The City Council is authorized to adopt an ordinance establishing voluntary campaign expenditure limits for elective city offices, thereby permitting candidates who accept the limits to double the amount an individual may contribute to their campaign. If the Council so desires, Council may introduce the proposed ordinance.

Recommended by:



Michael J. O'Toole, City Attorney

Approved by:



Jesús Armas, City Manager

Attachments: Proposed ordinance

AN ORDINANCE AMENDING CHAPTER 2 OF THE
HAYWARD MUNICIPAL CODE BY ADDING SECTION 13
THERE TO, ESTABLISHING A VOLUNTARY CAMPAIGN
EXPENDITURE LIMIT FOR ELECTIONS TO CITY OFFICES

WHEREAS, monetary contributions to political campaigns are a legitimate form of participation in the political process, but the financial strength of individuals or organizations should not permit them to exercise a controlling influence on the election of candidate; and

WHEREAS, the rapidly increasing costs of political campaigns have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters before state and local government; and

WHEREAS, the California Political Reform Act of 1996, enacted by the voters as Proposition 208 on November 5, 1996, permits cities to establish voluntary expenditure limits for candidates for elective office and the controlled committees of such candidates. Pursuant to California Government Code, section 85400(c), effective January 1, 1997, such a local voluntary expenditure limit may be established by the City Council in any amount not to exceed a total amount of one dollar (\$1.00) per resident of the jurisdiction.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HAYWARD DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 2 of the Hayward Municipal Code is hereby amended by adding Article 13 thereto, to read in full as follows:

"ARTICLE 13

"SEC. 2-13.00. VOLUNTARY EXPENDITURE LIMITS FOR CAMPAIGNS
FOR CITY ELECTIVE OFFICES.

- "(a) Pursuant to Government Code, section 85400(c), a voluntary expenditure limit of \$50,000 is hereby established for each election to City elective office. As used in this section, the term "City elective office" shall mean the offices of Members of the City Council and Mayor.
- "(b) Prior to accepting any contribution for a campaign, each candidate for City elective office shall file with the Fair Political Practices Commission a statement

of acceptance or rejection of the voluntary expenditure limit established herein with regard to that campaign. Each candidate shall send a copy of the statement to the City Clerk and to each candidate running for the same office.

- "(c) No candidate for City elective office who accepts the voluntary expenditure limit established herein and no controlled campaign committee of such a candidate shall make campaign expenditures cumulatively in excess of the voluntary expenditure limit established herein.
- "(d) Each candidate for City elective office who rejects the voluntary expenditure limit established herein shall be subject to the contribution limit set forth in Government Code Section 85301, as that section may be amended from time to time.
- "(e) Each candidate for City elective office who accepts the voluntary expenditure limit established herein shall be subject to the contribution limit set forth in Government Code, section 85402, and not the contribution limit set forth in Government Code, section 85301, as either section may be amended from time to time.
- "(f) Except as provided herein, the provisions of the California Political Reform Acts of 1974 and 1996, Government Code, sections 81000 et seq. (collectively "the Acts"), and applicable regulations adopted pursuant thereto, as the same may be amended from time to time, shall govern the interpretation and application of this section.
- "(g) The penalties and remedies for violations of this section shall be those set forth in the Act."

Section 2. In the event any section or portion of this ordinance shall be determined invalid or unconstitutional, such section or portion shall be deemed severable and all other sections or portions hereof shall remain in full force and effect.

Section 3. In accordance with the provisions of Section 620, subdivision (a), of the City Charter, this ordinance shall become effective upon adoption.

INTRODUCED at a regular meeting of the City Council of the City of
Hayward, held the 25th day of November, 1997, by Council Member Ward.

ADOPTED at a regular meeting of the City Council of the City of Hayward
held the 9th day of December, 1997, by the following votes of members of said City
Council.

AYES: COUNCIL MEMBERS: Jimenez, Hilson, Rodriquez, Ward, Hulteen, Henson
MAYOR: Cooper
NOES: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

APPROVED: Roberta Cooper
Mayor of the City of Hayward

DATE: Dec. 23, 1997

ATTEST: Angelina Reyes
City Clerk of the City of Hayward

APPROVED AS TO FORM:

M. O. [Signature]

City Attorney of the City of Hayward